

EXHIBIT 2

EXHIBIT 2

Declaration of Neil C. Baker

1 KARYN M. TAYLOR, ESQ., Bar # 6142
LITTLER MENDELSON, P.C.
2 200 S. Virginia Street, 8th Floor
Reno, NV 89501-1944
3 Telephone: 775.741.2185
Fax No.: 775.204-9158
4 Email: kmtaylor@littler.com

5 NEIL C. BAKER, ESQ., # 14476
LITTLER MENDELSON, P.C.
6 3960 Howard Hughes Parkway
Suite 300
7 Las Vegas, NV 89169-5937
Telephone: 702.862.8800
8 Fax No.: 702.862.8811
Email: nbaker@littler.com

9 *Attorney for Defendants*

10 CLUB DEMONSTRATION SERVICES, INC., and DAYMON
WORLDWIDE INC.

11
12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA
14

15 VICKIE HALE,

16 Plaintiff,

17 vs.

18 CLUB DEMONSTRATION SERVICES,
INC., a Connecticut Corporation,
19 DAYMON WORLDWIDE, INC., a
District of Columbia Corporation,

20 Defendants.
21
22

Case No. 3:21-CV-00257-MMD-WGC

**DECLARATION OF NEIL C. BAKER IN
SUPPORT OF DEFENDANTS' MOTION
TO COMPEL ARBITRATION AND TO
DISMISS THE ACTION, OR,
ALTERNATIVELY, TO STAY THE
ACTION PENDING ARBITRATION**

23 I, NEIL C. BAKER, declare follows:

24 1. I am an attorney admitted to practice in the State of Nevada, an associate of the law
25 firm Littler Mendelson, P.C., and counsel of record in this action for Defendants CLUB
26 DEMONSTRATION SERVICES, INC., and DAYMON WORLDWIDE, INC ("Defendants"). I
27 make this Declaration in Support of Defendants' Motion to Compel Arbitration and to Dismiss the
28

1 Action, or Alternatively, to Stay the Action Pending Arbitration.

2 2. On August 9, 2021, I contacted counsel for Plaintiff VICKIE HALE (“Plaintiff”),
3 Mr. James P. Kemp, by phone and e-mail to notify him that Plaintiff had signed “an agreement to
4 arbitrate all disputes arising out of her employment, including the claims alleged in the Complaint in
5 this matter.” I included a copy of the Arbitration Agreement (the “Agreement”) as an attachment to
6 my e-mail, together with a record of Plaintiff’s electronic signature of the Agreement. I further
7 asked that Plaintiff “please agree to stipulate to move this matter to arbitration” to “avoid
8 unnecessary expense.” A true and correct copy of the e-mail I sent to Mr. Kemp on August 9, 2021,
9 is attached here as **Exhibit A**.

10 3. Mr. Kemp told during our phone call on August 9, 2021, that he expected to provide
11 an answer about my proposed stipulation to move the matter to arbitration by August 10, 2021.

12 4. Mr. Kemp did not contact me regarding the proposed stipulation on August 10, 2021.

13 5. On August 11, 2021, I counsel followed up with a second e-mail to Mr. Kemp, again
14 requesting that Plaintiff stipulate to move the matter to the arbitral forum. I reiterated that, “[i]f
15 possible, [Defendants] would like to save all parties the unnecessary time and expense of fully
16 briefing a motion to compel.” A true and correct copy of the e-mail I sent to Mr. Kemp on August
17 11, 2021, is attached here as **Exhibit B**.

18 6. On August 12, 2021, Mr. Kemp stated that he had “not had a chance to speak to Ms.
19 Hale yet” but that he “hope[d] to do so today.” A true and correct copy of the e-mail I received from
20 Mr. Kemp on August 12, 2021, is attached here as **Exhibit C**.

21 7. Defendants’ deadline for responding to the Complaint (ECF No. 1) was August 13,
22 2021. Mr. Kemp did not contact me on or before that date to inform me whether Plaintiff was
23 willing to stipulate to move the matter to arbitration.

24 8. On August 26, 2021, Mr. Kemp informed me by e-mail that he did not agree that
25 Plaintiff was subject to an enforceable arbitration agreement. He also asked to schedule a Rule 26(f)
26 conference “and cancel out that September 15 pre-ENE meeting” ordered by Judge Baldwin. (ECF
27 No. 10.) A true and correct copy of the e-mail I received from Mr. Kemp on August 26, 2021, is
28 attached here as **Exhibit D**.

1 9. In response to Mr. Kemp's e-mail dated August 26, 2021, I sent Mr. Kemp an e-mail
2 on the same date stating at Defendants "do not intend to continue litigating in the judicial forum,
3 given the binding arbitration agreement signed by your client. We will participate only to the extent
4 necessary to comply with the Court's order setting an ENE conference. *We do not waive our right*
5 *to enforce the arbitration agreement* by our participation in the ENE or by our participation in any
6 conference or disclosures necessary therefor." A true and correct copy of the e-mail I sent to
7 Mr. Kemp on August 26, 2021, is attached here as **Exhibit E**.

8 10. I met with Mr. Kemp over the phone for a Rule 26(f) conference on August 31, 2021.
9 During that conference, I reiterated that Defendants intended to move to compel Plaintiff to arbitrate
10 her claims.

11 11. Attached here as **Exhibit F** is a true and correct copy of the American Arbitration
12 Association's Employment Arbitration Rules and Mediation Procedures (the AAA Employment
13 Arbitration Rules). I accessed and downloaded a copy of the AAA Employment Arbitration Rules
14 by visiting https://www.adr.org/sites/default/files/EmploymentRules_Web_2.pdf on September 13,
15 2021.

16 12. I declare under penalty of perjury under the laws of the State of Nevada and the
17 United States that the foregoing is true and correct.

18 Executed on September 23, 2021.

19
20
21
22
23
24
25
26
27
28



Neil C. Baker

4813-3951-0774.1 / 097919-1069